

REMARKS

Applicants have carefully considered the November 30, 2006 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1, 3-21 and 23-29 are pending in this application. Claim 29 has been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b).

In response to the Office Action dated November 30, 2006 claims 1 and 21 have been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 1, 3-21 and 23-28 were rejected under the second paragraph of 35 U.S.C. § 112. Applicants traverse.

Applicants have amended claim 1 to clarify the structure of the open envelope. Claim 1, as amended, describes that the conveyed envelope includes a front wall, back wall and flap extending away from the front wall and that a joint between the flap and the open envelope is perpendicular to the conveyor.

Claim 1 has been further amended to delete the phrase “relative to widthwise distal end portions of the conveyed open envelope”, which was objected to by the Examiner.

Claim 21 has been amended to refer back to “the conveyed envelope” to address the antecedent basis issue identified by the Examiner.

Accordingly, one having ordinary skill in the art would not have difficulty understanding the scope of the presently claimed subject matter, particularly when reasonably interpreted in light of the supporting specification. Therefore, it is respectfully submitted that the imposed rejection under 35 U.S.C. § 112, second paragraph is not legally viable and hence, solicit withdrawal thereof.

Claims 1-3, 9-11, 15-21 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated over Yates (U.S. Pat. No. 5,715,648, hereinafter “Yates”). Applicants traverse the rejection.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the possession of one having ordinary skill in the art. In imposing a rejection under 35 U.S.C. § 102, the Examiner is required to specifically identify wherein an applied reference is perceived to identically disclose each feature of a claimed invention. Moreover, there are significant differences between the claimed subject matter and the device disclosed by Yates that would preclude the factual determination that Yates identically describes the claimed subject matter within the meaning of 35 U.S.C. § 102.

Independent claims 1 and 21 both describe, in pertinent part, that the bending member is configured to bend the open envelope about an axis that is substantially perpendicular to a joint between the flap and the open envelope. Moreover, claim 1 describes that the bend is present along the center portion of the conveyed open envelope

and includes its flap, front wall and back wall. Claim 21 describes that the bending member is configured to bend the front wall, back wall and flap of the conveyed envelope.

In contrast Yates, at col. 2, lines 50-60 and FIGS. 5-6, discloses that once the envelope has reached the position of the envelope 24a, the flapper paddles 68 and 70 are rotated by a pair of solenoids 100 and 102 respectively to the positions seen in FIG. 6 so that the envelope 24a can be puckered, i.e. the envelope front panel 118 (address bearing panel) is separated from the back panel 116 (see FIG. 4). The hold-down fingers 60 and 62 are rotated downward to the positions seen in FIGS. 4 and 6 against the flapper paddles 68 and 70 respectively, thereby forcing the flap 64 and the front panel 118 downward and puckering the envelope 24a and causing it to open. Accordingly, Yates fails to disclose or suggest that its envelope opening apparatus is adapted to bend a envelope such that the bend includes the flap, front wall and back wall of the envelope, as required in each of independent claim 1 and 21. As clearly shown in FIG. 6 of Yates, the back panel 116 is not forced/bent from its original horizontal position -- only the flap 64 and front panel 118 are forced downward. Moreover, claim 1 further specifies that the bend is present along the center portion of the conveyed open envelope and includes its flap, front wall and back wall. See FIGS. 4A-5B of the present application. Yates, however, fails to disclose or suggest that its envelope opening apparatus creates a bend present along the center portion of the conveyed envelope, since the hold down fingers 60, 62 are positioned off-center of the envelope. See FIGS. 1 and 6.

Thus, Yates fails to identically disclose or suggest every limitation of independent claims 1 and 21 as amended. Accordingly, Applicants submit that the Examiner's

rejection under 35 U.S.C. § 102(b) is factually and legally erroneous and should be withdrawn.

Dependent claims 4-8, 12-14 and 24-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yates in view of Haas et al. (U.S. Pat. No. 4,780,040, hereinafter "Haas"). Applicants traverse.

Applicants incorporate herein the arguments previously advanced in traversal of the rejection under 35 U.S.C. § 102(b) predicated upon Yates. The secondary reference to Haas does not cure the argued deficiency of Yates. Haas was relied upon by the Examiner for disclosing multiple vacuum ports. Thus, even if the applied references are combined as suggested by the Examiner, the claimed pending subject matter will not result. Accordingly, the rejection is not legally viable and should be withdrawn.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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